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MAR 11 PM 4:10
CLERK OF U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION
17

18 SUCCESSFACTORS, INC.,

19 Plaintiff,

20 v.

21 SOFTSCAPE, INC.,

22 Defendant.
23
24
25

Case No. CV 08 1376 EDL

**MOTION FOR ADMINISTRATIVE RELIEF
TO FILE UNDER SEAL PLAINTIFF'S
EXHIBITS TO THE DECLARATION OF
ROB BERNSHTEYN IN SUPPORT OF
PLAINTIFF'S APPLICATION FOR
TEMPORARY RESTRAINING ORDER;
DECLARATION OF DENNIS FAIGAL IN
SUPPORT THEREOF**

26 Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff SuccessFactors, Inc. ("SuccessFactors")
27 hereby moves the Court for an Order permitting SuccessFactors to file under seal in this Court
28 specific documents attached as exhibits to the Declaration of Rob Bernshteyn in support of

MOTION FOR ADMINISTRATIVE RELIEF TO FILE
UNDER SEAL

CASE No. CV 08 1376 EDL

FENWICK & WEST LLP
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1 Plaintiff SuccessFactors' Application for Temporary Restraining Order ("Declaration of Rob
2 Bernshteyn").

3 The specific documents at issue are as follows:

- 4 1. An email message dated March 4, 2008, and PowerPoint presentation entitled
5 "The Naked Truth" ("the Presentation"). A true and correct copy of the email and
6 Presentation are attached as **Exhibit 1** to the Declaration of Rob Bernshteyn.
- 7 2. An email message dated March 5, 2008, from a prospective customer of
8 SuccessFactors. A true and correct copy of the email is attached as **Exhibit 2** to
9 the Declaration of Rob Bernshteyn.
- 10 3. An email message dated March 5, 2008, from Deutsche Bank AG in Germany.
11 A true and correct copy of the email is attached as **Exhibit 6** to the Declaration of
12 Rob Bernshteyn.

13 The Presentation included in the document identified as item (1) is a PowerPoint
14 presentation created by the defendants that disparages SuccessFactors and its products in order to
15 dissuade readers from doing business with SuccessFactors. The Presentation includes numerous
16 quotations and descriptions of customer requirements from some of SuccessFactors' customers.
17 It also includes screenshots from SuccessFactors' proprietary and competitively sensitive sales
18 demonstration software. The public accessibility of such information would cause irreparable,
19 competitive, and commercial harm to SuccessFactors. However, the Presentation is relevant to
20 the Court's determination of SuccessFactors' Motion for a Temporary Restraining Order. As
21 such, SuccessFactors respectfully requests that the Court allow it to file the Presentation in its
22 entirety under seal per Civil Local Rule 79-5.

23 The email message included in the document identified as item (1) is an email message to
24 which the Presentation was attached. The defendants sent the email to a customer of
25 SuccessFactors and it shows the customer's contact information. The public accessibility of such
26 information would cause irreparable, competitive, and commercial harm to SuccessFactors.
27 However, the email message is relevant to the Court's determination of SuccessFactors' Motion
28

1 for a Temporary Restraining Order. As such, SuccessFactors respectfully requests that the Court
2 allow it to file the Presentation in its entirety under seal per Civil Local Rule 79-5.

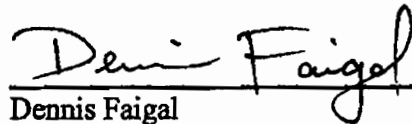
3 The documents identified as items (2) and (3) are email messages sent by the defendants
4 to which the Presentation was attached. These emails include contact information for two of
5 SuccessFactors' customers as well as statements from these customers regarding their purchasing
6 decisions. The public accessibility of such information would cause irreparable, competitive, and
7 commercial harm to SuccessFactors. However, the email messages are relevant to the Court's
8 determination of SuccessFactors' Motion for a Temporary Restraining Order. As such,
9 SuccessFactors respectfully requests that the Court allow it to file these emails under seal per
10 Civil Local Rule 79-5.

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12
13 Respectfully submitted,

14 Dated: March 11, 2008

FENWICK & WEST LLP

15
16 By:



Dennis Faigal

Attorneys for Plaintiff SUCCESSFACTORS, INC.

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